

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF OHIO
WESTERN DIVISION AT CINCINNATI**

KELVIN R. LOVETT,

Petitioner,

-vs-

WARDEN, Southern Ohio Correctional
Institution

Respondent.

:

Case No. 1:11-cv-518

:

Chief Judge Susan J. Dlott
Magistrate Judge Michael R. Merz

:

DEFICIENCY ORDER

This case is before the Court on Plaintiff's filing of a Notice of Appeal (Doc. #42) which was not accompanied by the appellate filing fee of \$455.00.

Pursuant to *McGore v. Wrigglesworth*, 114 F. 3d 601 (1997), it is hereby ORDERED that Plaintiff pay the filing fee of \$455.00 not later than February 15, 2013, to the Clerk of this Court, or file by that date a motion to proceed on appeal *in forma pauperis* with the Sixth Circuit.

Failure to pay the filing fee or file a motion to proceed *in forma pauperis* with supporting documents with the Sixth Circuit (1) may result in dismissal of the appeal for failure to prosecute and (2) will result in this Court's assessing the entire filing fee against Plaintiff. If the appeal is dismissed for failure to prosecute, it will not be reinstated despite subsequent payment or filing of the *in forma pauperis* application.

The Clerk shall certify a copy of this Order to the Sixth Circuit Court of Appeals.

January 28, 2013

s/ Michael R. Merz

United States Magistrate Judge